

Contracting and Procurement



PROCESS OVERVIEW

Overview



- Reference Tools
- What Drives a Procurement
- Exploring Existing Contracts
- Identifying the Procurement Path
 - Classifications / Thresholds / Methods
- Special Considerations
 - Used Equipment / Sole Source / Emergency

Overview Cont'd



- **Formal Bids**
 - Types, development, advertising
- **Evaluation of responses**
 - Requirements, guidelines, and considerations
- **Contract Award**
 - Vendor selection and communication
- **Vendor Reporting**
- **One Stop Information Repository**
- **Contract Management**

Reference Tools



- Delaware's Procurement Portal
 - <http://mymarketplace.delaware.gov>
- Delaware Code, Title 29, Chapter 69
 - <http://delcode.delaware.gov/>
- Government Support Services Website
 - <http://gss.omb.delaware.gov/>
- Office of Supplier Diversity (OSD) website
 - <http://gss.omb.delaware.gov/osd/index.shtml>

What Drives a Procurement



- A procurement is initiated by:
 - The new need for a product or service
 - The reoccurring need for a product or service
 - The expiration of an existing contract
- The course of the procurement is determined by:
 - The number of end users
 - The funds to be encumbered
 - Established Laws, Policies, and Procedures

Before You Buy



- Is the item or service already covered under a State Central Contract?
 - Central Contracts can be accessed through:
 - <http://mymarketplace.delaware.gov>
 - Contracts
 - State Contracts
 - Contracts having numbers beginning with GSS are Central Contracts
- Central Contracts include a mandatory use clause applicable to covered agencies.
 - Items covered under a Central Contract must be purchased through that contract
 - Covered Agencies are defined in DE Code Title 29 § 6902

Before You Buy cont'd



- Is the item or service already covered under:
 - An Existing Agency Contract
 - Need not be the buyer's own Agency
 - Reasonable investigation
 - Explore “Piggyback” opportunity
 - A General Services Administration (GSA) contract
 - <http://www.gsaelibrary.gsa.gov>
 - If a GSA contract is applicable, complete and submit the Government Support Services GSA Request
 - » http://gss.omb.delaware.gov/contracting/documents/agencyboilers/gsa_req_form_090607_enabled.pdf

Before You Buy part III



- Is there a policy regarding the intended purchase?
 - Items not to be purchased for general office availability include medicines and bottled water
 - Does it require special approval (Copiers, Vehicles, Postage equipment, Etc)
 - Desktop printers are discouraged
- Investigate product availability in both State and GSA surplus

Benefits of Existing Contracts



- Reduces workload for individual agencies
- State central contracts and GSA schedules attract more competitive volume pricing
- Vendors tend to dedicate more resources to larger volume contracts
- Vendor performance has already been evaluated

I Found It Cheaper (IFIC)



- Market conditions change constantly, with that in mind a resource is in place to communicate the possibility of a more favorable procurement opportunity.
- If you discover a better price for an item on a central contract you can communicate the information through:
 - <http://mymarketplace.delaware.gov>
 - ✦ Under the **I Found It Cheaper** heading, click on *Submit Your Suggestion*
 - The GSS Contracting unit will investigate the IFIC submission and respond to the submitter within 5 days on average:

The IFIC Process



- GSS Contracting will first ensure we are comparing apples to apples
 - Quantity per package, warranty, freight, etc.
- All things being equal, the vendor(s) on the central contract will be given an opportunity to meet the better price
- If the vendor(s) cannot meet the better price, the GSS Contract Administrator may request the Director of GSS authorize a waiver allowing a specific purchase to be made off-contract

What to Do If There Isn't a Contract Already In Place



- Identify the procurement classification
 - Materiel and Non-Professional Services
 - Professional Services
 - Public Works
- Identify the classification procurement thresholds
- Determine the projected annual spend
- Using the classification, thresholds, and spend, determine the appropriate procurement method
 - Open Market
 - 3 written quotes
 - Formal Procurement

Procurement Classifications



- **Materiel and Non-Professional Services**
 - Products & Commodities (Tools, Fuel, Foods, Clothes, etc.)
 - Generic Services (Carpet Installation, Courier Service, etc.)
- **Professional Services**
 - Services requiring specialized education, training, or knowledge (engineers, medical, consulting, etc)
- **Public Works**
 - Work or service that “touches” or affects public buildings or grounds (construction, alteration, repair)

Procurement Thresholds (based on annualized spend)



- **Materiel and Non-Professional Services**

- | | |
|-----------------------|------------------|
| ○ Less than \$10,000 | Open Market |
| ○ \$10,000 - \$24,999 | 3 Written Quotes |
| ○ \$25,000 + | Formal Bid |

- **Professional Services**

- | | |
|----------------------|-------------|
| ○ Less than \$50,000 | Open Market |
| ○ \$50,000 + | Formal Bid |

Procurement Thresholds (annualized spend) cont'd



- **Public Works**

- Less than \$50,000

Open Market

- \$50,000 - \$99,999

3 Letter Bids

(letters sent for pricing)

- \$100,000 +

Formal Bid

- Purchasing thresholds are established by the Contracting and Purchasing Advisory Council

- Thresholds can be found at:

- <http://mymarketplace.delaware.gov>

- Agency Resources

- ✦ Small Purchase Procedures

Procurement Method



- **Open Market**
 - Responsible identification of a favorable price from a qualified vendor
- **3 Written Quotes / Letter Bids**
 - Award is determined by the lowest price from a qualified vendor
- **Formal Procurement**
 - ITB, RFP, or Professional Services RFP

Sourcing At All Levels



- Under Threshold sourcing provides an opportunity to apply policy interests with respect to Delaware vendors, MWBE's, Veteran and Service Disabled Veteran owned businesses.
 - OSD: <http://gss.omb.delaware.gov/osd/certdir.asp>
 - Veteran / Service Disabled Veteran: <http://www.vip.vetbiz.gov>
 - SBA vendor database:
http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm
 - MyMarketPlace vendor listing:
http://contracts.delaware.gov/vendor_list.asp
 - DFM Contractor Registry:
<http://dfm.delaware.gov/contractor/index.shtml>

Invitation To Bid (ITB)



- **Competitive Sealed Bidding**
 - DE Code Title 29, Chapter 69, § 6923
 - ✦ Used primarily for products or commodities
 - ✦ Award is determined by lowest price from a qualified bidder
 - ITB boilerplate can be found here:
 - ✦ <http://mymarketplace.delaware.gov>
 - Agency Resources
 - Agency Bid Process Forms

Request For Proposal (RFP)



- **Competitive Sealed Proposal**
 - DE Code Title 29, Chapter 69, § 6924
 - ✦ Used when the procurement is not solely a product but is more in the nature of a solution to a problem where solutions are expected to be varied.
 - ✦ Allows for consideration of factors other than price in determining award
 - RFP Boilerplate can be found here:
 - ✦ <http://mymarketplace.delaware.gov>
 - Agency Resources
 - Agency Bid Process Forms

Professional Services Request For Proposal



- Large Professional Services
 - DE Code Title 29, Chapter 69, § 6981
 - ✦ Used when there is a need for a service requiring specialized education, training, or knowledge and involving intellectual skill (§ 6902, ¶ 18)
 - ✦ While cost is an important factor, the capabilities or skill sets of the bidder are key evaluation components
 - Professional Services RFP boilerplate found here:
 - ✦ <http://mymarketplace.delaware.gov>
 - Agency Resources
 - Agency Bid Process Forms

Used Equipment Purchase



- Purchases of Used Equipment or Materiel are not subject to competitive bidding requirements (§ 6934).
 - Negotiation for best pricing still required
 - Lifecycle costing analysis required (§ § 6902, 6909A)
 - Agency Head approval required
 - ✦ Based on reasonable price for intended use
 - Check State surplus inventory
 - ✦ <http://gss.omb.delaware.gov/surplus/state.shtml>
 - Consider GSA (federal) surplus
 - ✦ <http://gss.omb.delaware.gov/surplus/federal.shtml>

Emergency Purchases



- An Agency Head may waive the provisions of DE Code Title 29, Chapter 69 where there is a critical need (§ 6907)
 - Limited to the materiel or service needed to address the emergency
 - ✦ Condition or contingency that could not reasonably be foreseen and guarded against
 - ✦ Documentation required
 - Time specific to address the emergency condition
 - ✦ Bring the procurement back within standard protocols in as timely a manner as possible

Sole Source Purchases



- An Agency Head may waive the provisions of DE Code Title 29, Chapter 69 where there is a Sole Source procurement (§ 6925)
 - Requires development of evidence that there is only one source for the product or service
 - ✦ Branding is not a sole source justification
 - Negotiations for best price are still required
 - Agencies may request GSS review & comment in making a sole source determination

GSA Purchase Requests



- DE Code §6935 makes allowance for State Agencies, through OMB / GSS, to make purchases utilizing GSA (federal) contracts providing the items are not covered by a State contract.
- An Agency GSA Request Form can be accessed through the GSS website:
http://gss.omb.delaware.gov/contracting/documents/agencyboilers/gsa_req_form_090607_enabled.pdf
- Completion of the form will require some advance research on the part of the requesting Agency
 - Obtaining 3 competitive quotes
 - Explaining why the Agency is not pursuing a Formal Procurement (if applicable)
 - Supporting rationale for needing the specific item on the GSA schedule
 - ✦ This may require a detailed explanation of either the uniqueness of the product or stipulations associated with the funding stream

Review / Approval of GSA Request



- The GSS Contracts Administrator will:
 - Review the content of the submitting Agency's request
 - Review the specific GSA contract language
 - Make a recommendation to the Director of GSS
- The Director of GSS will:
 - Make the final determination as to whether it is in the best interest of the State to pursue the GSA purchase.
 - ✦ On average, a final determination is made within five business days from the Contracts Administrator's receipt of an adequately completed agency request
- GSS will negotiate a contract with the GSA vendor. Once the contract is executed, the requesting agency can proceed with the purchase.

Lifecycle of a Formal Procurement (ITB, RFP, Prof. Services RFP)



- Draft Bid Document (possible user group development)
- Possible Review by DTI (technology procurement)
- Review by Agency procurement officer
- Review by GSS
 - Possible review by other Authority Agency
- Public Advertising
- Questions accepted from potential bidders
- Pre-bid Meeting

Procurement Lifecycle part II



- Published Response to Bidder Questions
- Bid Opening
- Evaluation of bidder submissions
 - Possible user group involvement
- Possible bidder presentations
- Possible further DTI review (technology procurement)
- Negotiations
- Award Determination /Contract Execution
- Written notification to all bidders

Procurement Lifecycle part III



- Publication of contract / award notice
- Publication of vendor reporting
 - Tier 1: Vendor Usage Reports - Monthly
 - Tier 2: Subcontracting Report – Quarterly
- Contract management & evaluation
 - Monitor vendor performance and market conditions
 - Track opportunities for future improvements
- End of contract term decisions
 - Renew, re-bid, consolidate, allow to expire



Drafting the Bid Document



- Access the appropriate boilerplate:
 - <http://mymarketplace.delaware.gov>
 - ✦ Agency Resources / Agency Bid Process Forms
- Determine if the resulting contract will be Agency specific or a State central contract *
 - *Consider applicability to Municipalities, Fire Dept.'s, etc.
- Develop a User Group if applicable
 - A user group is 2 or more Agency or non-agency representatives who will provide expertise in the development of the bid document. (Ideally these same representatives will evaluate bidder submissions.)

Drafting The Document ct'd



- If the scope of services involves Information Technology, Agency IRM representatives should be involved
 - ✦ Agency IRM may need to develop and submit a Business Case to DTI for review / approval
- Following the prompts in the boilerplate, insert the appropriate information including:
 - Scope of services
 - Evaluation criteria
 - Timetables
 - Single or multiple award

Consider Security



- **Bid Bond or Certified Check**
 - When there are considerable requirements a potential bidder would need to have in place prior to submitting a bid or proposal
- **Performance Bond**
 - When there is limited competition for the product or service leading to a need for assurance the contract requirements will be met.

More Bond Considerations



- Consider the impact of bond requirements on supplier diversity initiatives
 - Waiving or reducing the bond requirement could facilitate increased participation by minority, women, disadvantaged, veteran, or service-disabled veteran businesses
 - ✦ Increased participation by these businesses could lessen the potential contract performance risks

Review / Approval of the Bid Document



- The completed bid document should be submitted for review and approval:
 - 1st: Agency procurement official (if applicable)
 - 2nd: Government Support Services (GSS) via contracting@state.de.us
- Submissions to GSS should be accompanied by a completed Agency Solicitation Request
 - Found under Agency Resources on MyMarketplace
- GSS may need to involve other Authority Agencies dependent on the scope of services

Other Review Considerations



Procurement Type	Required Review
Public Works / Construction	Division of Facilities Management
Auditing Services	Auditor's Office
Legal Services	Attorney General's Office
Food Services in State Facilities	Division of the Visually Impaired
Vehicles under 10,000 G.V.W.	Fleet Services
Postage Equipment	Messenger Services
Copiers	Printing & Publishing
Information Technology Products and Services	Department of Technology & Information

Public Advertising



- Formal Procurements must be advertised for a minimum of two weeks (DE Code)
 - The two weeks refers to the period of time beginning with the date the procurement becomes available for public review and ending with the date bids or proposals are due
 - Two weeks is a minimum period. Agencies are encouraged to consider longer periods when the scope of services includes numerous or complex requirements
- The approved advertising medium for the State is <http://bids.delaware.gov> (a component of MyMarketplace)

Vendor Outreach



- Seeking the most qualified vendor and the most favorable price
 - Bidding opportunities for State central contracts are communicated to:
 - ✦ Certified Delaware Office of Supplier Diversity vendors
 - ✦ Vendors listed on GSA schedules
 - ✦ Vendors in the Small Business Administration database
 - ✦ Vendors currently on contract
 - ✦ Past bidders for similar product / service
 - All Agencies are encouraged to mirror these outreach efforts
 - Vendors who have registered to receive notification of bidding opportunities will be notified automatically

Bidder Questions



- The person identified in the bid document as the State contact for the procurement should collect all bidder questions.
 - Dependent on the structure of the bid document, there may be multiple opportunities for bidders to submit questions.
 - It is encouraged that questions be accepted only in written form via fax or e-mail.

Pre-bid Meeting



- Pre-bid meetings are an opportunity for face to face discussion between Agency representatives and potential bidders. These meetings are encouraged for bids with a complex or detailed scope of services.
- Agency representation should include a designated scribe to record questions presented by bidders.
- Meeting attendance needs to be documented and posted on the State procurement website
 - ✦ An attendance sheet template is available at:
<http://mymarketplace.delaware.gov>
 - Agency Resources / Agency Bid Process Forms

Answers to Bidder Questions



- Answers are required to be provided for all questions submitted by bidders
 - This includes questions received by fax or e-mail as well as any questions posed during the pre-bid meeting
- A listing of all questions and answers is to be posted on the State procurement website as an addendum to the original bid document
 - ✦ Addendum template available at <http://mymarketplace.com>
 - Agency Resources / Agency Bid Process Forms

Bid Opening



- All bids are to be opened at the time and place indicated in the bid document
- Names of submitting bidders as well as names of those in attendance for the bid opening must be recorded
 - A bid opening registrar can be found at
 - ✦ <http://mymarketplace.delaware.gov>
 - Agency Resources / Agency Bid Process Forms
- There should always be at least 2 Agency representatives present for a bid opening

Evaluation of Bidder Submissions



- Bidder submissions must be evaluated based on the requirements in Delaware Code and scoring criteria established in the bid document
 - It is suggested submissions first be reviewed for compliance with mandatory requirements
 - ✦ Number of copies, required forms, etc.
- There should be a minimum of 2 agency representatives involved in evaluations (the 2nd could be supervisor review)
- If a user group developed the bid document, those same group members should participate in evaluation

Example of Scoring Criteria (RFP)



Item	Criteria	Points
1	Demonstrated experience in successfully providing services and equipment of a similar type on a similar scale	35
2	Methodology proposed in meeting the requirements set forth in the scope of services	25
3	Proposed timeline in meeting the requirements set forth in the scope of services	25
4	Appropriateness of costs as they relate to the proposed delivery of service and equipment	25
TOTAL		110

Determining the Award



- Formal Bids issued under § 6923 (ITB) are awarded based on the lowest price from a responsive and responsible bidder
- Formal Bids issued under § § 6924 (RFP) and 6981 (Prof. Services RFP) are awarded based on evaluator scoring of responsive and responsible submissions
 - Scoring must be based on the content of the proposal
- Evaluators may seek clarification of submissions and / or negotiate with bidders

Information Technology Checkpoint



- For technology based procurements, once the preferred bidder(s) has been identified it may be necessary to get further approval from DTI before moving forward with award.
 - Agencies should seek direction from their IRM representatives
 - Agency IRM may need to update and resubmit a Business Case to DTI for review

Notifying Bidders



- Every bidder must receive written notification of the award results
 - Bidders selected for award will receive:
 - ✦ An award letter
 - If there is a multiple award the letter should reflect such
 - ✦ Two copies of a contract for execution
 - Bidders not selected will receive a non-award letter
 - Templates for letters can be found at:
 - <http://mymarketplace.delaware.gov>
 - Agency Resources / Agency Bid Process Forms

Multiple Source Award



- Contracts awarded to more than one vendor provide for:
 - Increased service / equipment coverage
 - Increased competition
 - Improved service
 - Reduced risk
- An allowance for multiple award needs to appear in the bid document

Award Notice

(yes it's different from an award letter)



- Award Notices are issued for State central contracts and serve as a communication tool to Agency buyers:
 - Vendor contact information
 - Covered products and / or services
 - Pricing structure
 - Ordering Procedure
 - Contract specific Vendor or State requirements
- Award notices are found under the specific contract
 - <http://mymarketplace.delaware.gov>
 - ✦ Contracts

Vendor Reporting



- Awarded vendors are required to submit monthly and quarterly reports to the contract manager in a format established by the State.
- These reports tell the story of where and how the State is spending.
- The contract officer or appropriate agency contact is responsible for monitoring vendor reporting compliance

Vendor Reporting cont'd



- Tier 1 Reporting – Monthly Usage Report
 - Details of Agency and product spend
 - ✦ Reporting template found at:
 - <http://mymarketplace.delaware.gov>
 - Vendor Resources / Vendor Usage
- 2nd Tier Reporting – Quarterly Subcontracting
 - Details subcontractor participation in the contract
 - ✦ Reporting template found at:
 - <http://mymarketplace.delaware.gov>
 - Vendor Resources / 2nd Tier Reporting Forms

One Stop Information Repository



- The complete history of the formal procurement and contract is posted on <http://mymarketplace.delaware.gov>
 - Bid documents
 - Outreach summary
 - Pre-bid meeting attendance
 - Bidder names and classifications
 - Awarded vendor information
 - Award notice
 - Vendor usage reports

Information Repository continued



- Information on all vendors awarded a contract through the competitive bidding process is available on MyMarketplace in the following locations:
 - Under the **Contracts** tab, click on **Awarded Vendors** for information including diversity certifications and Delaware businesses
 - Under the **Results Delaware** tab, click on **Awarded Vendor Contact Info** for primary contact information.

Contract Management



- **Monitor vendor performance**
 - Corrective Action Requests (CAR)
 - Timely reporting
 - Adequate communication
- **Monitor market conditions**
 - Pricing / availability in line with the market
- **Track opportunities for improvement**
 - Improvements to contract language
 - Extended Agency participation

End of Contract Term Decisions

(begin 6 months prior to contract end)



- Renew the contract for another year
 - Negotiations with vendor(s)
- Re-bid the contract
 - Formal procurement
- Consolidate the contract
 - Internal Agency consolidation
 - Become central contract
- Allow the contract to expire
 - Product or service no longer required